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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/176,866	10/22/1998	JAMES V. YOUNG	6996	2374

1688 7590 06/01/2005

POLSTER, LIEDER, WOODRUFF & LUCCHESI  
12412 POWERS COURT DRIVE SUITE 200  
ST. LOUIS, MO 63131-3615

EXAMINER

DEMILLE, DANTON D

ART UNIT PAPER NUMBER

3764

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6

## Office Action Summary

Application No.

09/176,866

Applicant(s)

YOUNG, JAMES V.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9,15-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9,15-19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

**1. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holt in view of Fisk.**

2. Regarding the new limitations added to the claim, Holt teaches a plate 28 in which to collect contaminants from entering the vacuum system. Fisk also teaches means to collect contaminants in the form of a vial 3 within the vacuum line. Both provide the purpose of collecting contaminants from entering the motor providing the vacuum source. They are equivalent alternative means for performing the same function. It would have been obvious to one of ordinary skill in the art to modify Holt to replace plate 28 with the vial within the vacuum line as taught by Fisk as an obvious equivalent alternative means for doing the same thing. Plate 28 is no longer needed with the vial in the vacuum line thereby allowing substantially all of the contaminants to be transmitted substantially unimpeded from the cavity to the connection tube.

**3. Claims 4, 5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Wilson.**

4. Fisk already teaches a vial that contains a plurality of compartments within the vial. The contaminants must pass through each compartment in series. There is no unobviousness to having these compartments are formed in series as taught by Fisk or as separate vials as taught by Wilson. It would have been obvious to one of ordinary skill in the art to further modify Holt to use separate vials in the vacuum line as taught by Wilson so as to be able to separately clean each compartment.

**5. Claims 6, 7, 9, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Marshall et al.**

6. Marshall teaches separate controls for the vibration means and the suction means. It would have been obvious to one of ordinary skill in the art to further modify Holt to include means to separately control the vibration and suction as taught by Marshall so that each means can be independently reduced or eliminated when desired.

7. **Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 15 above, and further in view of Wilson.**

8. Fisk already teaches a vial that contains a plurality of compartments within the vial. The contaminants must pass through each compartment in series. There is no unobviousness to having these compartments are formed in series as taught by Fisk or as separate vials as taught by Wilson. It would have been obvious to one of ordinary skill in the art to further modify Holt to use separate vials in the vacuum line as taught by Wilson so as to be able to separately clean each compartment.

***Response to Arguments***

9. **Applicant's arguments with respect to claims 1, 2, 4-7, 9, 15-19 and 21 have been considered but are moot in view of the new ground(s) of rejection.**

10. Holt teaches a plate to collect contaminants in the head of the device. Fisk teaches a vial 3 in the vacuum line to collect contaminants. These elements are equivalent alternative means for doing the same thing. Holt teaches everything including a means for collecting contaminants from the air flow. It's just that Holt uses a plate within the applicator head and Fisk uses a vial within the vacuum line. There appears to be no unobviousness to using either one. It doesn't appear to be an inventive step to take the conventional means for filtering out contaminants as taught by Fisk and use it for the device of Holt. It would have been obvious to one of ordinary

skill in the art to modify Holt to use the vial as taught by Fisk as an obvious equivalent way of doing the same thing.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

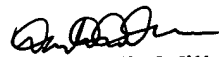
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-Th from 8:30 to 6:00. The examiner can also be reached on alternate Fridays.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson, can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Danton DeMille  
Primary Examiner  
Art Unit 3764